

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0396-PWS-E TCEQ ID: RN101196673 CASE NO.: 32980
RESPONDENT NAME: LOS OJUELOS WATER COMPANY, INC.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Three miles south of Mirando City, on Farm-to-Market Road 649, Webb County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There were no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 29, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Water Enforcement Section, MC R-14, (361) 825-3425

TCEQ Regional Contact: Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052

Respondent: Mr. Daniel Mendieta, President, Los Ojuelos Water Company, Inc. 1906 Loreto Drive, Laredo, Texas 78045-6326

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 16, 2007</p> <p>Date of NOE Relating to this Case: February 28, 2007</p> <p>Background Facts:</p> <p>The EDRP was filed on September 12, 2007. The Respondent filed an Answer and the case was referred to SOAH. A signed Agreed Order with full penalty payment was received on October 13, 2008.</p> <p>Current Compliance Status:</p> <p>The facility is not currently in operation.</p> <p>PWS:</p> <p>1. Failed to provide an intruder-resistant fence to protect the wells [30 TEX. ADMIN. CODE § 291.41(c)(3)(O)].</p> <p>2. Failed to ensure that all water system electrical wiring is securely installed in compliance with a local or national electrical code [30 TEX. ADMIN. CODE § 291.46(v)].</p> <p>3. Failed to provide flow measuring devices to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 291.41(c)(3)(N)].</p>	<p>Total Assessed: \$684</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$684</p> <p>The Respondent has paid the assessed penalty amount in full.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Enclosed the wiring for well number two in accordance with local or national code; and</p> <p>b. Repaired the flow meter for well number two and installed a flow meter for well number three.</p> <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>a. Within 60 days, provide intruder-resistant fences for each well.</p> <p>b. Within 75 days, submit written notarized certification to demonstrate compliance.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	5-Mar-2007	Screening	16-Mar-2007	EPA Due	
	PCW	23-Sep-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Los Ojuelos Water Company, Inc.		
Reg. Ent. Ref. No.	RN101196673		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32980	No. of Violations	3	
Docket No.	2007-0396-PWS-E	Order Type	1660	
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal	
Multi-Media		EC's Team	Enforcement Team 2	
Admin. Penalty \$	Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 14% Enhancement **Subtotals 2, 3, & 7** \$84

Notes The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement action and two dissimilar NOVs.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	X (mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$338 **0% Enhancement*** **Subtotal 6** \$0
Approx. Cost of Compliance \$6,700 ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$684

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$684

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$684

DEFERRAL 0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement

PAYABLE PENALTY \$684

Screening Date 16-Mar-2007

Docket No. 2007-0396-PWS-E

PCW

Respondent Los Ojuelos Water Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32980

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101196673

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 14%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement action and two dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

Screening Date 16-Mar-2007

Docket No. 2007-0396-PWS-E

PCW

Respondent Los Ojuelos Water Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32980

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101196673

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(O)

Violation Description

Failed to provide an intruder-resistant fence to protect well numbers 1, 2, 3, and 4. Specifically, at the time of the investigation, the investigator observed a 4 foot barbed wire fence with no extra barbed wires angled outward at a 45 degree angle around well numbers 1, 2, 3, and 4.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Not providing proper intruder resistant protection for the water wells could expose the public to a significant amount of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 4

28 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$400

Four quarterly events are recommended (one event per well) from the date of the investigation, February 16, 2007, to the date of screening, March 16, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$331

Violation Final Penalty Total \$456

This violation Final Assessed Penalty (adjusted for limits) \$456

Economic Benefit Worksheet

Respondent Los Ojuelos Water Company, Inc.
Case ID No. 32980
Reg. Ent. Reference No. RN101196673
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$6,000	16-Feb-2007	1-Dec-2007	0.8	\$16	\$316	\$331
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to install the intruder-resistant fences, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

TOTAL

\$331

Screening Date 16-Mar-2007

Docket No. 2007-0396-PWS-E

PCW

Respondent Los Ojuelos Water Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32980

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101196673

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code. § 290.46(v)

Violation Description

Failed to ensure that all water system electrical wiring is securely installed in compliance with a local or national electrical code. Specifically, at the time of the investigation, the investigator noted that the wiring around well number 2 was not installed in accordance with local or national code.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Improperly installed electrical wires may cause equipment to malfunction resulting in low pressure or outages which could result in exposure to significant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

4 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, February 16, 2007, to the date of compliance, February 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$114

This violation Final Assessed Penalty (adjusted for limits) \$114

Economic Benefit Worksheet

Respondent Los Ojuelos Water Company, Inc.
Case ID No. 32980
Reg. Ent. Reference No. RN101196673
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$200	16-Feb-2007	20-Feb-2007	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to install electrical wiring at well number 2 in compliance with a local or national code, calculated from the date of the investigation to date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$0

Screening Date 16-Mar-2007

Docket No. 2007-0396-PWS-E

PCW

Respondent Los Ojuelos Water Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32980

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101196673

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description

Failed to provide flow measuring devices to measure production yields and provide for the accumulation of water production data. Specifically, the investigator noted that the flow meter on well number 2 was malfunctioning and that no flow meter was observed on well number 3.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have an operational flow measuring device prevents the system from obtaining accurate well production data and may result in the system not being able to provide a sufficient water supply.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 2

28

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

Two single events are recommended (one event per well).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$114

This violation Final Assessed Penalty (adjusted for limits) \$114

Economic Benefit Worksheet

Respondent: Los Ojuelos Water Company, Inc.

Case ID No.: 32980

Reg. Ent. Reference No.: RN101196673

Media: Public Water Supply

Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$500	16-Feb-2007	23-Apr-2007	0.2	\$0	\$6	\$6
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide additional operational flow meters for the wells, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$6

Compliance History

Customer/Respondent/Owner-Operator: CN602564460 Los Ojuelos Water Company, Inc. Classification: Rating:

Regulated Entity: RN101196673 LOS OJUELOS WATER CO Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2400017

Location: 3 MI S OF MIRANDO CITY ON FM 649, WEBB COUNTY, TX

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: March 16, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 16, 2002 to March 16, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Epifanio Villarreal Phone: 210-403-4033

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

10/15/2003 (392973)
 11/06/2003 (395907)
 01/28/2004 (395910)
 02/10/2004 (262220)
 02/27/2004 (395917)
 07/29/2004 (395925)
 07/20/2005 (398195)
 02/28/2007 (541399)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/15/2003 (392973)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 08/2003.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 08/2003.

Date: 11/06/2003 (395907)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING

SAMPLES IN 09/2003.

Date: 02/11/2004 (262220)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide an intruder-resistant fence in order to protect the wells.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide each well with a concrete sealing block extending at least 3 feet from the exterior well casing in all directions.

Date 08/21/2006 (509317)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide an intruder-resistant fence in order to protect the wells.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide each well with a concrete sealing block extending at least 3 feet from the exterior well casing in all directions.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(e)(1)

Description: 30 TAC Chapter 290, SubChapter D 290.45(e)(2)

Description: Failure by a wholesale water supplier, to provide enough production to meet the commitment specified in the contractual obligations and to supply the minimum capacity requirements based on the retail service connection and the maximum amount of water obligated in the wholesale contract.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)

Description: Failure to securely install all electrical wiring in compliance with a local or national electrical code.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to provide a legible ownership sign at each production facility.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failure to provide a flow measuring device for each well.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LOS OJUELOS WATER
COMPANY, INC.; RN101196673

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0396-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Los Ojuelos Water Company, Inc. ("Los Ojuelos") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Los Ojuelos appear before the Commission and together stipulate that:

1. Los Ojuelos owns and operates a public water supply approximately three miles south of Mirando City, on Farm-to-Market Road 649, Webb County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Los Ojuelos agree that the Commission has jurisdiction to enter this Agreed Order, and that Los Ojuelos is subject to the Commission's jurisdiction.
4. Los Ojuelos received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Los Ojuelos of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Hundred Eighty-Four Dollars (\$684.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Los Ojuelos has paid Six Hundred Eighty-Four Dollars (\$684.00) of the administrative penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Los Ojuelos have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Los Ojuelos has implemented the following corrective measures at the Facility:
 - a. Enclosed the wiring for well number two in accordance with local or national code, as documented on February 20, 2007; and
 - b. Repaired the flow meter for well number two and installed a flow meter for well number three, as documented on April 23, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Los Ojuelos has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Los Ojuelos is alleged to have:

1. Failed to provide an intruder-resistant fence to protect the wells, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O), as documented during an investigation conducted on February 16, 2007.
2. Failed to ensure that all water system electrical wiring is securely installed in compliance with a local or national electrical code, in violation of 30 TEX. ADMIN. CODE § 290.46(v), as documented during an investigation conducted on February 16, 2007.
3. Failed to provide flow measuring devices to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on February 16, 2007.

III. DENIALS

Los Ojuelos generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Los Ojuelos pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Los Ojuelos's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Los Ojuelos Water Company, Inc., Docket No. 2007-0396-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Los Ojuelos shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, provide intruder-resistant fences for each well, in accordance with 30 TEX. ADMIN. CODE § 290.41.

- b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Laredo Regional Office
Texas Commission on Environmental Quality
1403 Seymour, Suite 2
Laredo, Texas 78040-8752

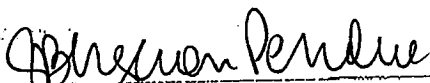
3. The provisions of this Agreed Order shall apply to and be binding upon Los Ojuelos. Los Ojuelos is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Los Ojuelos shall be made in writing to the Executive Director. Extensions are not effective until Los Ojuelos receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Los Ojuelos in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date is the date of hand-delivery of the Order to Los Ojuelos, or three days after the date on which the Commission mails notice of the Order to Los Ojuelos, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/9/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

Nov 17, 2008
Date

Daniel J. Mendieta

Name (Printed or typed)
Authorized Representative of
Los Ojuelos Water Company, Inc.

President
Title